

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 23, 2007

ALL-COUNTY INFORMATION NOTICE: I-05-07

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: NEW IN-HOME SUPPORTIVE SERVICES (IHSS) PLUS WAIVER
PROGRAM REGULATIONS

REFERENCE: WELFARE AND INSTITUTIONS CODE (WIC) SECTION 14132.951

The purpose of this All-County Information Notice (ACIN) is to provide counties with further information on the new In-Home Supportive Services (IHSS) Plus Waiver Program regulations required by WIC section 14132.951(h)(2), enacted by Senate Bill (SB) 1104, Chapter 229, Statutes of 2004. The attached regulations were filed with the California Secretary of State's Office and became effective on October 12, 2006.

BACKGROUND

Upon the enactment of SB 1104, the California Department of Social Services (CDSS), in conjunction with the California Department of Health Services (DHS), submitted a section 1115 Demonstration Waiver application to the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS). The IHSS Plus Waiver was approved by CMS on July 31, 2004, and now provides Medi-Cal covered services to eligible participants.

SUMMARY OF IHSS PLUS WAIVER REGULATIONS

WIC section 14132.951(b) states:

To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.

Accordingly, the IHSS Plus Waiver regulations replicate the IHSS-R Program regulations, Manual of Policies and Procedures (MPP) section 30-700 et seq., in all areas except where deviations are required by the IHSS Plus Waiver Special Terms and Conditions to conform to Medi-Cal rules and regulations.

SUMMARY OF ADDITIONS/CHANGES TO THE IHSS-R REGULATIONS

1. MPP 30-785(b) Eligibility
 - (1) A person is eligible for the IHSS Plus Waiver who is a California resident, living in his/her own home and is aged, blind or disabled according to Medi-Cal definitions; (compared to the IHSS-R eligibility at MPP 30-755.1)
 - (2) Has been found eligible for full-scope federally funded Medi-Cal;
 - (4) Receives at least one of the following:
 - Restaurant Meal Allowance,
 - Advance Pay,
 - Services provided by his/her spouse, and/or
 - Service(s) provided by a parent to their minor child.
 - (5)(A) In determining the applicable share of cost the following shall apply:
 - (1) Medi-Cal rules regarding share of cost will be followed for the purposes of determining Medi-Cal eligibility in accordance with Title 22, CCR, Division 3, Chapter 2, Articles 10, 11 and 12, and
 - (2) To the extent a recipient comes within the terms of the supplemental payment program described in Welfare and Institutions Code section 12305.1, a share-of-cost comparison as described in that section shall be performed. The applicable share-of-cost for such recipients shall include the supplementary payment authorized in that section.
2. MPP 30-785(e) Program Content
 - (1)(A) A person who is eligible for a service provided pursuant to that IHSS Plus Waiver shall not be eligible for any services through the IHSS program.
 - (1)(B) A person who is eligible for all of their services pursuant to the PCSP shall not be eligible for any service through the IHSS Plus Waiver or IHSS program.
3. MPP 30-785(g) Application Process
 - (1) The IHSS Plus Waiver application process shall follow the MPP section 30-759, except for 30-759.3.
 - (2) Presumptive disability is determined in accordance with Medi-Cal regulations located at Title 22, California Code of Regulations, section 50167(a)(1)(C).

- (3) Additionally, for those not already determined eligible for full-scope federally funded Medi-Cal, a determination for Medi-Cal eligibility must be completed before final eligibility for the IHSS Plus Waiver can be established.
 - (4) Intercounty transfers of the IHSS Plus Waiver service case must be coordinated with the intercounty transfer of the Medi-Cal eligibility case.
4. MPP 30-785(i) Needs Assessment Standards
- (2)(A) A reassessment must be completed prior to the end of the twelfth calendar month from the last assessment (compare to MPP 30-761.215, which allows for 18 month intervals for IHSS-R and PCSP cases).
5. MPP 30-785 (o) Overpayment/Underpayment
- (1) Overpayment and underpayment determinations must follow the CDHS regulations sections 50781, 50786 and 50787. (MPP Handbook sections 30-768.5, .6 and .7).

ONLINE REGULATIONS

These new regulations, MPP 30-785, are accessible online at:
http://www.dss.cahwnet.gov/ord/CDSSManual_240.htm

CONTACTS

Any questions regarding these new regulations should be directed to Desi Gonzales, Manager, IHSS Plus Waiver Unit at (916) 229-4000.

Sincerely,

Original Document Signed By:

EVA L. LOPEZ
Deputy Director
Adult Programs Division

Attachment

c: CWDA

Amend Section 30-700 to read:

30-700

PROGRAM DEFINITION

30-700

- .1 The In-Home Supportive Services (IHSS) Program provides assistance to those eligible aged, blind and disabled individuals who are unable to remain safely in their own homes without this assistance. IHSS is an alternative to out-of-home care. Eligibility and services are limited by the availability of funds.
- .2 The Personal Care Services Program (PCSP) provides personal care services to eligible Medi-Cal beneficiaries pursuant to Welfare and Institutions Code Section 14132.95 and Title 22, California Code of Regulations, Division 3 and is subject to all other provisions of Medi-Cal statutes and regulations. The program is operated pursuant to Division 30.
- .3 The IHSS Plus Waiver program provides IHSS Plus Waiver services, to eligible Medi-Cal beneficiaries, subject to Medi-Cal provisions, statutes and regulations, pursuant to Welfare and Institutions Code Section 14132.951 and Title 22, California Code of Regulations, Division 3, and is operated pursuant to Division 30.
 - .31 These services are available as described in MPP Section 30-757, when services are provided by a parent of a minor child recipient or a spouse; and/or when the recipient receives a Restaurant Meal Allowance; and/or when the recipient receives Advance Payment for in-home care services.
 - .32 Recipients in any one of the categories described in Section 30-700.31, who have been determined eligible for Medi-Cal, qualify for the IHSS Plus Waiver program.
 - .33 The IHSS Plus Waiver program is a "Section 1115 Demonstration Project" as defined in 42 USC, Section 1315. This demonstration project has been approved for 5 years, beginning August 1, 2004. Eligibility and services are limited to the availability of funds and potential extensions to the demonstration.
- .3 4 Individuals who qualify for both IHSS and PCSP funding shall be funded by PCSP.
- .4 5 All civil rights laws, rules, and regulations of Division 21 shall be complied with in administering IHSS program regulations.

Authority Cited: Sections 10553, ~~and~~ 10554, 12300, 14142.95, and 14132.951, Welfare and Institutions Code; ~~and~~ Chapter 939, Statutes of 1992; and 42 USC, Section 1315(a) of the Social Security Act.

Reference: Sections 12300, 14132.95, and 14132.951, Welfare and Institutions Code.

Adopt Section 30-785 to read:

Post-Hearing: Amend Section 30-785(a)(1) to read:

30-785 IN-HOME SUPPORTIVE SERVICES (IHSS) PLUS WAIVER PROGRAM 30-785

(a) Program and Special Definitions

- (1) The IHSS Plus Waiver program will follow the IHSS ~~(IHSS)~~, Program Definitions and Special Definitions, specified in MPP Sections 30-700 and 30-701, unless otherwise specified.

(b) Eligibility

- (1) A person is eligible for the IHSS Plus Waiver who is a California resident, living in his/her own home and is aged, blind or disabled according to Medi-Cal definitions, and;
- (2) Has been found eligible for full-scope federally funded Medi-Cal based upon either:
- (A) receipt of cash assistance through SSI/SSP, CalWORKs cash aid or Foster Care, or
- (B) an eligibility determination completed by a Medi-Cal Eligibility Worker for full-scope federally funded Medi-Cal, in accordance with Medi-Cal regulations located at Title 22, California Code of Regulations (CCR), Division 3, Subdivision 1, Chapters 1 and 2, and;
- (3) Has an assessed need, based upon a needs assessment as described in MPP Section 30-761, and;
- (4) Receives at least one of the following:
- (A) Restaurant Meal Allowance as specified in MPP Section 30-757.134;
- (B) Advance Pay as specified in MPP Section 30-769.73;
- (C) Service(s) provided by his/her spouse as allowed in MPP Section 30-763.41;
- or
- (D) Service(s) as a minor child provided by his/her parent as allowed in MPP Section 30-763.45, and;
- (5) Any applicable share of cost has been met.
- (A) In determining the applicable share of cost the following shall apply:

1. Medi-Cal rules regarding share of cost will be followed for purposes of determining Medi-Cal eligibility in accordance with Title 22, CCR, Division 3, Chapter 2, Articles 10, 11 and 12.
2. To the extent a recipient comes within the terms of the supplemental payment program described in Welfare and Institutions Code Section 12305.1, a share-of-cost comparison as described in that section shall be performed. The applicable share of cost for such recipients shall include the supplementary payment authorized in that section.

(c) Process for Determination of Eligibility for IHSS Plus Waiver Services

- (1) The process for determining eligibility for the IHSS Plus Waiver program shall be in accordance with MPP Section 30-755.2.

(d) Need

- (1) Designated county staff shall determine the recipient's level of ability, dependence, physical assistance and need in accordance with MPP Section 30-756.

(e) Program Content

- (1) IHSS Plus Waiver program content shall be the same as the program content expressed in MPP Section 30-757.
 - (A) A person who is eligible for a service provided pursuant to the IHSS Plus Waiver shall not be eligible for any service through the IHSS program.
 - (B) A person who is eligible for all of their services pursuant to the PCSP shall not be eligible for any service through the IHSS Plus Waiver or IHSS programs.

(f) Time Per Task and Frequency Guidelines

- (1) When assessing the need for services the assessed time shall be in accordance with MPP Section 30-758.

(g) Application Process

- (1) The IHSS Plus Waiver application process shall follow the MPP Section 30-759, except for 30-759.3.
- (2) Presumptive disability is determined in accordance with Medi-Cal regulations located at Title 22, CCR, Division 3, Section 50167(a)(1)(C).
- (3) Additionally, for those not already determined eligible for full-scope federally funded Medi-Cal, a determination for Medi-Cal eligibility must be completed before final eligibility for the IHSS Plus Waiver can be established.

- (4) Intercounty transfers of the IHSS Plus Waiver service case must be coordinated with the intercounty transfer of the Medi-Cal eligibility case.
- (h) Responsibilities
 - (1) IHSS Plus Waiver applicant/recipient and county responsibilities shall be the same as the responsibilities specified in MPP Section 30-760.
- (i) Needs Assessment Standards
 - (1) Services shall be authorized only in cases which meet the conditions established in MPP Section 30-761.1 and eligibility as specified in MPP Section 30-785(b).
 - (2) Needs Assessments are performed in accordance with MPP Section 30-761.2, except:
 - (A) A reassessment must be completed prior to the end of the twelfth calendar month from the last assessment.
 - (3) IHSS staff shall be staff of a designated county department as specified in, MPP Section 30-761.3.
- (j) Service Authorization
 - (1) Authorization for services shall be determined in accordance with MPP Section 30-763.
- (k) Individual Providers Compensation
 - (1) The computation of payment, rate of compensation and employer responsibilities for the IHSS Plus Waiver program shall follow the guidelines specified in MPP Section 30-764.
- (l) Cost Limitations
 - (1) The cost limitations that apply to all payments made for IHSS Plus Waiver services shall follow the guidelines specified in MPP Section 30-765.

(m) County Plans

- (1) Each county welfare department shall develop and submit a county plan to CDSS no later than 30 days following receipt of its allocation, which specifies the means by which the IHSS Plus Waiver program will be provided in order to meet the objectives and conditions within its allocation as specified in MPP Section 30-766.

(n) Service Delivery Methods

- (1) The county shall arrange for the provision of IHSS Plus Waiver through one or more of the Service Delivery Methods as specified in MPP Sections 30-767.11, .12 and .13.

(o) Overpayments/Underpayments

- (1) For purposes of determining overpayments, action on overpayments and demand for repayment for an IHSS Plus Waiver recipient, DHS regulation Sections 50781, 50786 and 50787 (MPP Handbook Sections 30-768.5, .6 and .7) shall apply.

(p) Payrolling for Individual Providers

- (1) Counties shall follow the payrolling-for-individual-providers procedures, specified in MPP Section 30-769, for individual providers who provide services to IHSS Plus Waiver recipients.

(q) Provider Identification

- (1) Proof of provider identification shall follow the guidelines specified in IHSS, Provider Identification, MPP Section 30-776.

Authority Cited: Sections 10553, 10554, 12300, 14132.95, and 14132.951, Welfare and Institutions Code; and 42 USC, Section 1315(a) of the Social Security Act.

Reference: Sections 12300, 12305.1, 14132.95, and 14132.951, Welfare and Institutions Code, and Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 Demonstration Project.